



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE**

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Board Minutes

29 October 2010

The meeting of the Tennessee State Board of Accountancy convened in the Andrew Johnson Tower, Nashville, Tennessee on Friday, October 29, 2010 at 8:30 a.m. Board members present were: Stan Sawyer, Chair; Don Royston, Vice Chair; Lisa Stickel, Secretary; Vic Alexander; Kenneth Cozart; Al Creswell; Shannone Raybon and Casey Stuart. Jennifer Brundige arrived later in the meeting.

Absent were Board Members Bill Blaufuss and Doug Warren.

Staff members present were: Mark Crocker, Executive Director; Don Mills, Investigator; Chris Whittaker, Staff Attorney; Sandra Cooper and Kathy Riggs. Wendy Garvin was also present representing the Tennessee Society of CPAs.

Mr. Sawyer called the meeting to order. There were no announcements to be made, so he asked Board members to review the minutes from the meeting on July 30, 2010 and from the telephonic meeting on August 30, 2010. Mr. Royston moved to accept the minutes as presented and Mr. Cozart seconded the motion. Motion passed unanimously.

Executive Director's Report:

Mr. Crocker reported that he, Don Mills and Lisa Stickel attended the NASBA Annual Meeting held in San Antonio on October 24 – 27, 2010. Mr. Mills will be giving a complete report on the conference later in the meeting.

The ALD (Accounting Licensing Database) Committee met on Wednesday, October 27 and he is pleased to report that there are now thirty-one (31) states participating in ALD with Illinois being the latest addition.

The Executive Directors Committee also met while in San Antonio. This Committee is planning a "Roast" for David Costello at the Annual Executive Directors Conference which will be held in March in San Diego, California. Mr. Crocker has been placed in charge of this particular event.

The Enforcement Committee met in Washington D.C. on August 23, 2010. The purpose of this meeting was to meet with legislative representatives and senators to discuss semi-independent status for all state boards of accountancy. Mr. Crocker was unable to attend the meeting and has no update at this time. The NASBA State Board Relevance and Effectiveness Committee is responsible for drafting rationale and a legislative template for a self-directed semi-independent board. Ms. Jennifer Brundige has been appointed to serve on this committee.

The Department has communicated to the Legislature that we will have at least 70% of our complaints closed within 180 days. That timeframe is from the day the complaint is opened until a consent order is issued. There may be occasions in which it would be beneficial for the Board to meet between quarterly meetings. Telephonic meetings could be arranged to deal with disciplinary actions.

License counts for profession codes 1101, 1102 and 1103 are attached. As of this morning, there were only 60 licensees in 'Delinquent' status. That is less than 1/2 of 1% of our licensees. The staff has done an outstanding job of contacting these licensees and getting them to either properly close their license or to renew.

Mr. Crocker also reported that he had accepted a position of service with the AICPA Codification Project. The State Advisory Group will work with the Professional Ethics Executive Committee to restructure and codify the AICPA's Code of Professional Conduct.

The schedule of state holidays is as follows:

Thursday, November 11, 2010

Friday, November 26, 2010

Friday, December 24, 2010

Monday December 27, 2010

Friday, December 31, 2010

Monday, January 3, 2011

Monday, January 17, 2011

Future Meeting Dates are as follows:

Friday, January 28, 2011

Friday, April 29, 2011

Friday, July 29, 2011

Friday, October 28, 2011

Friday, January 27, 2012

Friday, April 27, 2012

The meeting proposed for October 28, 2011 may be changed to earlier in that month due to travel issues with the NASBA Annual Meeting.
That concluded Mr. Crocker's report (full report is Attachment 1).

Board Retreat:

There was a short discussion on the Board Retreat concerning dates, times and participants. The Retreat will begin at noon on Thursday, December 2 and adjourn by 4:00 pm on Friday, December 3, 2010.

Rule Making Hearing:

Laura Betty called the Rule Making Hearing to order. Discussion ensued regarding the proposed change to Rule 0020-2-.02(1)(b)3. The change in this rule deletes the weighting of graduate courses relative to undergraduate courses. A roll call vote of Board members present was unanimous in making the rule change. The transcript of the hearing is included as Attachment 2.

NASBA Report:

Don Mills gave his report on the 103rd Annual NASBA Meeting in San Antonio October 25-27, 2010. He covered the selection process that NASBA was following to replace David Costello. 75 applications were received, 10 were interviewed and 9 of those 10 were CPAs. The recommendation of the Selection Committee will be presented to the NASBA Board of Directors at the January meeting. Mr. Mills then covered the agenda topics for the meeting. Lisa Stickel also gave a short report on the Board Chairs' Breakfast which she attended in place of Mr. Sawyer who was unable to attend the meeting. Board independence was a key topic of that breakfast.

BOE Update:

Mr. Crocker gave a brief update on BOE (Board of Examiners) activities in Mr. Warren's absence. He informed the Board that questions on IFRS would appear on the exam in the first quarter of 2011. In order to be able to evaluate the validity of those questions, all exam grades for the first three quarters of 2011 will be held until the end of each quarter instead of being sent out in waves. This process will assist in determining how the candidates responded to the IFRS questions.

He also reported that the exam was to be delivered internationally in the near future. The first international exam was to be administered in Japan. This Board needs to follow this issue closely because of the mobility issue and the fact that these candidates may be allowed to practice in Tennessee once they receive a license.

NASBA UAA Committee:

Lisa Stickel reported that she attended a meeting of the UAA Committee in Chicago in September. The discussions were extremely detailed in deciding on how to word things. Future changes may include: 1) definitions for "network" and "network firm"; 2) providing guidance to boards on reviewing firm names that have been approved in other states; and 3) providing guidance to boards on misleading firm names as well as names for networking firms. Issues coming up next year include reviewing the definition of attest services; multi-state enforcement; treatment of inactive and retired statuses; and recognition of IFRS in the UAA.

NASBA Communications Committee:

Ms. Stickel also gave a report on the activities of the Communications Committee. She began her report with social media. The survey taken by NASBA indicated that 31 states reported that they do not use any type of social media, and only 4 states are currently utilizing this method of communication. Ms. Stickel distributed copies of the presentation given at the Committee meeting for the Board to review (Attachment 3).

Formal Hearing:

The next item of business was a formal hearing in the matter of Rick N. Harrison, CPA, license number 6011. Charges were filed against Mr. Harrison for failure to pay the Professional Privilege Tax as required by law, and failure to respond to Board correspondence. Ms. Laura Betty, Esq., represented the State of Tennessee and Mr. Harrison served as his own counsel. The case convened with the Honorable Marion P. Wall presiding.

The results of the hearing are as follows:

Mr. Alexander moved that Mr. Harrison be allowed until 28 January 2011 to pay the past due Professional Privilege Tax; interest accrued thereon; all investigatory, hearing and prosecutorial costs; and a civil penalty in the amount of \$2,000.00. Mr. Harrison is to provide proof of payment of all monies due to the Board office on or before 28 January 2011. Failure to do so will result in automatic revocation of his license. The motion was seconded by Mr. Royston and passed with a unanimous vote.

A full transcript of the hearing is included as Attachment 4.

Formal Hearing:

The next item of business was a formal hearing in the matter of Mr. Greg Beverly. The charges against Mr. Beverly were for holding out as a CPA without proper licensure in this state. Ms. Laura Betty, Esq., represented the State of Tennessee. Mr. Beverly was not present for the hearing although proper notice had been given. The Honorable Marion P. Wall presiding. The case convened with a vote by the Board to proceed with Mr. Beverly in absentia.

The results of the hearing are as follows:

Mr. Alexander moved that Mr. Beverly be assessed a civil penalty in the amount of \$2,000.00 plus all investigatory, prosecutorial and hearing costs. In addition, the Board of Accountancy in Missouri and Virginia are to be notified of the disciplinary actions taken since Mr. Beverly is licensed in Virginia and is believed to be currently residing in Missouri. Mr. Creswell seconded the motion and it passed unanimously.

A full transcript of this hearing is included as Attachment 5.

Candidate Interview – Byron Wolfe

Mr. Wolfe applied for licensure as a certified public accountant and reported a felony conviction on his record. The Board considered his application at the last meeting and requested at that time that Mr. Wolfe be asked to appear before the Board before a decision rendered as to his licensure.

Mr. Wolfe relayed to the Board his legal history, the lessons learned from his mistakes, and the accomplishments he had achieved since his release. He answered all questions put to him by the Board members in a satisfactory manner. Mr. Michael Wallace appeared before the Board as a character witness for Mr. Wolfe. Following the question and answer period, Mr. Creswell moved that the license be granted. Mr. Royston seconded the motion and it passed with a unanimous vote.

Committee Reports:

Licensing Committee:

Ms. Brundige gave the report from the Licensing Committee. The Committee considered the application of Larry T. Tarwater – Revoked License Number 6571 – for reinstatement of his license. His license was revoked in 2004 due to a felony conviction for tax fraud. He has served his time and is now eligible for reinstatement. The Committee recommended that Mr. Tarwater be sent a letter requesting that he supply the following information in the form of an affidavit: restitution made, if any; work activities since revocation; rehabilitation efforts; and education completed since revocation (as provided in Rule 0020-1-.10(4)). Additionally, Mr. Tarwater should present letters of recommendation addressing reasons for reinstatement and he should be available for questioning during the Licensing Committee meeting on Thursday, January 27, 2011 and during the Board meeting on Friday, January 28, 2011.

The Committee also considered a request from Mr. Steve Swindall to be allowed to sit for the CPA exam. Mr. Swindall has a felony conviction on his record for his use of HUD loan proceeds. He did not serve time in prison, but was placed on probation and ordered to commit to community service. The Committee recommended notifying Mr. Swindall that he is approved to sit for the exam, but that his file must be reviewed again before his application for licensure is processed.

Ms. Della Morrow requested that the Board consider removing compilations from the definition of 'attest' services. The Committee recommended that Ms. Morrow be notified that the Board has no authority over the definition of 'attest' which is defined by statute and can only be modified by legislation.

Ms. Barbara Gershowitz requested that the Board review the Certified Professional Bookkeeper designation and offer an opinion on the benefit of that designation to students wishing to pursue bookkeeping as a career path. The Committee recommended that Ms. Gershowitz be notified that the Board is not in a position to determine if the designation of "Certified Professional Bookkeeper" will be beneficial to students and potential employers and alerting her to Tennessee Code Annotated § 62-1-113(g) which prevents persons not licensed as Certified Public Accountants from using certain titles which could be misleading to the public.

The Committee recommended approval of the State Specific Ethics Course submitted by Thompson Reuters.

The Committee recommended approval of these firms requesting exemption from the Peer Review Requirement:

3346	Deborah Snapp, CPA	Johnson City	TN	9/7/10 Reinstate
3629	Linda B. Robinson, CPA	Knoxville	TN	01/26/09
3733	Christopher T. Brown, CPA	Knoxville	TN	09/08/10
3754	The Waters Firm, CPA, PC	Brentwood	TN	10/19/10
3769	Maureen Augenbaum, CPA	Franklin	TN	08/25/10
3799	Randles CPA Firm	Memphis	TN	08/03/10
3800	AFI Management, Inc.	Memphis	TN	08/17/10
3802	Integrity Taxes	Knoxville	TN	08/25/10
3803	Marceline H. Oberly, CPA	Bristol	TN	Not Yet
3806	Robin Butler Taylor, CPA	Memphis	TN	09/01/10
3807	Secure Financial Services, LLC	Nashville	TN	09/09/10
3808	Laura S. Moss-Dudley, CPA	Nashville	TN	09/26/10
3809	Raquel McKinney, CPA, PC	Hampton	TN	09/26/10
3810	Benny Ramero, CPA	Cookeville	TN	10/11/10
3811	Marsha Louis Priester, CPA	Nashville	TN	09/26/10
3812	Meryl Stinson, CPA	Dickson	TN	Not Yet
3817	Barbara Duncan, CPA	Blountville	TN	10/19/10

That concluded Ms. Brundige's report.

Vic Alexander moved to accept the report and recommendations as presented; Lisa Stickel seconded and motion passed unanimously.

Law and Rules Committee:

Ms. Stickel reported that the Committee had discussed mobility and the wording of the Tennessee statute. The issue is whether a licensee holding a Tennessee license that is NOT in good standing can practice in Tennessee through mobility if they have relocated to another state. Rule 0020-1-.13 regarding Interstate Practice will need to be changed so that in order to practice in Tennessee through mobility the Tennessee license must be in good standing. Chris Whittaker, the Staff Attorney, will draft language to be considered at a later meeting. A motion was made by Jennifer Brundige and seconded by Lisa Stickel to accept this change. Board voted unanimously to support this concept.

Ms. Stickel then reviewed the following rules and made the recommended changes:

Rule 0020-1-.01(1)(j) should be revised to include partner or shareholder as a "Member." Definitions for "Expired License," "Delinquent License," and "LLP" should be added to this rule.

Motion to accept by Vic Alexander, seconded by Jennifer Brundige, passed unanimously.

Rule 0020-1-.02 should be revised to include Robert's Rules of Order as procedure to be followed. Any time Robert's Rules of Order conflict with the Uniform Administrative Procedures Act, then the UAPA governs.

Jennifer Brundige moved to accept this change, seconded by Casey Stuart, passed unanimously.

Rule 0020-1-.06 should be revised to delete (6) referring to the written exam and (7)(b) which also refers to the written exam. Conditional credits are to be defined in Rule 0020-1-.01 with language to be determined.

Don Royston moved to accept these rule changes, seconded by Jennifer Brundige, passed unanimously.

Rule 0020-1-.08 (6) should be revised so that the penalty assessed on January 31 is to be \$100.00.

Vic Alexander moved to accept this change, seconded by Don Royston, passed unanimously.

Rule 0020-1-.08(7) is to be deleted leaving only the one penalty assessed at January 31 as the late penalty.

Motion to accept the change by Jennifer Brundige, seconded by Al Creswell and passed unanimously.

Rule 0020-1-.04(f) is to be changed to \$100.00 for year or part year. Jennifer Brundige moved to accept the change, seconded by Shannone Raybon and passed unanimously

Rule 0020-1-.08 is to be revised so that the terms "Administratively Closed" and "lapsed" are to be changed to "Expired." Complete language to be determined.

Motion to accept by Jennifer Brundige, seconded by Vic Alexander, and passed unanimously.

This concluded the report from the Law and Rules Committee.

Executive Committee Report:

Mr. Sawyer stated that the Committee adopted a performance tool in order to conduct a performance review of the Executive Director. That evaluation will take place at the next meeting.

The Committee is also recommending that the Board hire an additional investigator. A motion was made to approve this hire by Mr. Royston, seconded by Ms. Raybon and passed unanimously.

The Committee reviewed a budget for FY 11. Mr. Alexander moved acceptance of the budget as presented, seconded by Don Royston, passed unanimously.

Mr. Crocker asked for a Board vote to authorize his ability to refund monies as appropriate. Mr. Alexander moved to grant that authority, Mr. Royston seconded, passed unanimously.

The Committee also recommended that Mr. Crocker be given the authority to approve firm exemptions from Peer Review with a list of those approved firms to be provided to the Board. Mr. Alexander moved to accept the recommendation, seconded by Ms. Brundige, passed unanimously.

That concluded the report of the Executive Committee.

Probable Cause Committee:

Mr. Alexander reported on the complaint statistics and noted that the staff was working on clearing out the older complaints. He indicated that the Board may need to consider additional meetings simply to hear disciplinary actions. The Board reviewed the proposed Disciplinary Guidelines prepared by the Committee. A motion to accept the new Guidelines was made by Mr. Sawyer, seconded by Mr. Royston and passed unanimously.

Mr. Whittaker presented the Legal Report and Mr. Alexander reviewed the summary. Ms. Raybon recused herself from Cases 18 and 19 and Ms. Stickel recused herself from Case 1. A motion was made by Mr. Creswell to accept the Legal Report, seconded by Mr. Sawyer. The motion passed with the recusals as noted. The Statistics and Legal Report are included as Attachment 6.

Independence Committee:

Ms. Stickel referred the Board members to the position paper prepared by NASBA on Semi-Independent Boards of Accountancy. Ms. Stickel also stated that she and Mr. Crocker had visited with Will Pugh concerning the possibility of the Board of Accountancy achieving semi-independent status. Mr. Pugh agreed with the Board's endeavor and recommended that the Board be ready with budgets and legislation by January 2011. Ms. Brundige suggested that the Committee examine other models within Tennessee that are operating on a semi-independent basis such as the Tennessee Regulatory Authority.

The Committee is inviting Carlos Johnson, the Chair of NASBA's State Board Relevance and Effectiveness Committee to the Board Retreat. Mr. Will Pugh has also agreed to attend to discuss semi-independent status. The Committee plans to present an operating budget and a capital budget at the Retreat.


Ms. Stickel also noted that this project should be driven by the Board members and not by the Staff.

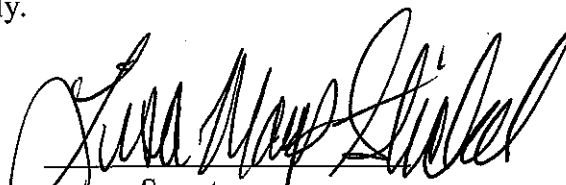
Ethics Presentation:

The last item of business was a presentation by the Staff Attorney, Chris Whittaker. Mr. Whittaker presented a summary from the Illinois Board regarding a study done by an accounting professor on the AICPA Ethics Course. Her conclusion is that the current course is "less rigorous" than the older version based on the number of questions, the open book nature of the course, and the length of time to complete the exam. She recommended that the course be changed to make it more effective.

In her opinion, the AICPA Real World Business Ethics Course may be an acceptable alternative. It involves more case studies in integrity, objectivity and independence. It is more practical and useful than the Comprehensive Ethics Course which is currently required for licensure by the Tennessee Board.

There being no further business, Mr. Royston made a motion to adjourn, seconded by Jennifer Brundige and passed unanimously.


Chairman


Secretary